

REMARKS

1. Claims 1, 7-14 and 16-21 are pending in the application. Claims 20 and 21 have been withdrawn from consideration due to an election requirement.
2. Claims 1, 7-8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,174,535 to Lundmark.
3. Claims 9-10, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundmark in view of U.S. Patent 4,671,267 to Stout.
4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lundmark and Stout in view of U.S. Patent 4,542,012 to Dell.
5. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundmark in view of U.S. Patent 4,857,328 to Trenzeluk.
6. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundmark in view of U.S. Patent 4,307,717 to Hymes et al.
7. Claim 1 has been amended and claims 17 and 18 have been cancelled. No new matter has been added. Support for the amendments to claim 1 are on pg 9 lines 24-31 of the application.

Rejections under 35 U.S.C §103 (a)

Claim 1 has been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,174,535 to Lundmark.

The present invention as recited in amended claim 1, teaches, *"A honey-based wound treatment preparation comprising: 5 to 60 wt.% humectant; 30 to 40 wt.% polymeric gel based on acrylic monomers; 5 to 60 wt.% honey entrapped in said polymeric gel, the honey having antibacterial properties and free of heavy metals, pesticides, and herbicides; 10-30 wt.% polymer, and 10-30 wt.% water wherein the honey has a peroxide number of more than 5 µg/g honey/hour, measured at a temperature of 21 °C; wherein the honey-based wound treatment preparation is sterilized by gamma ray radiation, such that the honey retains its antibacterial properties."* (Emphasis added)

In contrast, Lundmark discloses a preparation for cosmetic treatment of keratinous substrates, wherein the honey is one source of liquid polysaccharide. Lundmark is concerned with a source of liquid polysaccharide for the properties that are derived from liquid polysaccharide, which Lundmark teaches can be provided by other sources. In col. 3, lines 56-57 Lundmark teaches that a preferred source of liquid polysaccharide is high fructose corn syrup.

Lundmark is not concerned with treatment of wounds, but rather with cosmetics. Thus Lundmark does not teach or suggest *"the honey having antibacterial properties"* as recited by claim 1. Lundmark teaches away a preparation with antibacterial properties by teaching that high fructose corn syrup can be used in the preparation rather than honey. It is well known that high fructose corn syrup does not have any antibacterial properties.

Lundmark also does not teach or suggest *"honey having antibacterial properties and free of heavy metals, pesticides, and herbicides"*, as recited in part in claim 1. Again Lundmark is not concerned with treatment of wounds so is not concerned whether the honey used in his preparation has heavy metals, pesticides, or herbicides.

Further, Lundmark does not teach or suggest *"wherein the honey-based wound treatment preparation is sterilized by gamma ray radiation"* as recited in claim 1. On page 10, lines 11-12 of the Office Action the Examiner states that Lundmark does not disclose the honey being sterilized with the use of gamma rays. However, the Examiner states on page

10, lines 16-19 of the Office Action that it would be obvious to have used the sterilization method of Hymes on the composition taught by Lundmark in order to make a composition which is suitable for direct contact with the skin to cover surgical wounds or burn tissue.

Applicant respectfully disagrees. Neither Lundmark nor Hymes teach or suggest the use of honey with antibacterial properties. Also neither Lundmark nor Hymes teach or make obvious *"wherein the honey-based wound treatment preparation is sterilized by gamma ray radiation, such that the honey retains its antibacterial properties"*, as recited in part in claim 1. Hymes does not use honey at all, so it is not obvious from Hymes that a honey preparation with antibacterial properties would retain its antibacterial properties after radiation. Lundmark uses honey but does not teach or suggest use of radiation for sterilization nor is Lundmark even concerned with a honey preparation with antibacterial properties.

Thus, claim 1 as amended is not obvious in view of Lundmark and Hymes either singly or in combination.

In view of the above, claim 1 as amended is patentable over Lundmark, and also patentable over Lundmark in view of Hymes. At least by virtue of their dependency on claim 1, claims 7-14, 16, and 19 are also patentable over Lundmark. Accordingly, the Applicant requests withdrawal of the 103(a) rejection of claims 1, claims 7-14, 16, and 19 under 35 USC 103(a).

Conclusion

The Applicant respectfully contends that all conditions of patentability are met in the pending claims. All remarks have been made without prejudice. The Examiner is respectfully requested to pass the application to issue.

* * *

The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR §1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed, and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this paper (and any enclosure referred to in this paper) is being transmitted electronically to the United States Patent and Trademark Office on

September 25, 2008

(Date of Transmission)

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Enclosure: Petition for a 3-month extension